

**Notice of Allowability****Application No.**

09/978,561

**Examiner**

Paul Huber

**Applicant(s)**

NAKAO, TAKASHI

**Art Unit**

2653

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the election and amendment filed August 20, 2004.
2. ☒ The allowed claim(s) is/are 1-15.
3. ☒ The drawings filed on 18 October 2001 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.


Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
PAUL W. HUBER  
PRIMARY EXAMINER

Art Unit: 2653

**REASONS FOR ALLOWANCE**


Applicant's election with traverse of the species to figures 3-6C, claims 1-15 readable thereon, in the reply filed on August 20, 2004 is acknowledged. The traversal is on the ground(s) that "search and examination of [the] entire application can be made without serious burden". These arguments are considered moot in light of the fact that the applicant has canceled all non-elected claims in the application and all remaining claims are found to be allowable.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Each of the references cited on the PTO-892 disclose an optical pickup device including a diffraction optical element.

The following is an examiner's statement of reasons for allowance: the prior art of record considered as a whole fails to teach or suggest an optical-data-detecting device for applying light from a light source to a recording medium and detecting the light reflected from a recording medium, or method thereof, comprising: an element for diffracting the reflected light and disposing the focal points of the  $\pm 1$  diffraction orders to be offset from each other along the optical axis of the zeroth diffraction order with the focal point of the zeroth diffraction order being between the focal points of the  $\pm 1$  diffraction orders; **an optical element for increasing the diameter of at least the zeroth diffraction order at least in a direction substantially perpendicular to a track of the recording medium; and first photo-detecting means divided at least in a direction substantially perpendicular to the track of the recording medium, for determining the position of at least one light spot formed by the zeroth diffraction order.** (bold language emphasized).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Huber whose telephone number is 703-308-1549.



Paul Huber  
Primary Examiner  
Art Unit 2653

pwh  
November 24, 2004